

Message Text

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ACTION OES-02

INFO OCT-01 SS-14 ISO-00 EUR-08 PM-03 ACDA-10 CIAE-00

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FM AMEMBASSY BRUSSELS

TO SECSTATE WASHDC 8029

INFO ALL EC CAPITALS

AMEMBASSY VIENNA

C O N F I D E N T I A L BRUSSELS 14410

LIMDIS

USEEC

VIENNA FOR USIAEA

E.O. 11652: GDS

TAGS: TECH, ENRG, EEC, IAEA

SUBJECT: PHYSICAL SECURITY ASSURANCES AND NNPA

REFS: (A) PARIS 22869: (B) BRUSSELS 14108 AND PREVIOUS:

(C) VINE-HINTON TELCON JULY 24

1. MANY OF POINTS IN REFTEL A ARE GOOD ONES AND WE AGREE THAT THE SUGGESTED APPROACH BOTH IN CAPITALS AND IN THE COMMUNITY HAS ADVANTAGES. AS WE UNDERSTAND FROM RETELCON, DEPARTMENT THINKING IS PROCEEDING ALONG THESE LINES WITH SOME MODIFICATION. THIS SAID, I WANT TO ADD THAT UPON FURTHER REFLECTION PARIS POINT THAT FRENCH MAY NOT IN ANY CASE SOON GIVE US THE ASSURANCES WE SEEK STRIKES ME AS A POTENTIALLY SERIOUS PROBLEM.

2. WHILE I CANNOT OF COURSE ASSESS FRENCH REACTIONS, IT
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IS NOT TO BE EXCLUDED THAT THE FRENCH WOULD USE A FORMAL REQUEST FOR PHYSICAL SECURITY ASSURANCES TO ONCE AGAIN DEMONSTRATE THEIR DISLIKE FOR US UNILATERALLY IMPOSED CHANGES IN EXISTING ARRANGEMENTS UNDER OUR COOPERATION AGREEMENT WITH EURATOM AND INCIDENTALLY ONCE AGAIN TO EXPOSE US AS SOMETHING LESS THAN RELIABLE SUPPLIERS. THE TEMPTATION WOULD BE ALL THE MORE SINCE THE REQUIREMENT IN

THIS CASE FOR WRITTEN ASSURANCES IS TRACEABLE TO NRC REGULATIONS AND NOT TO THE NON-PROLIFERATION ACT ITSELF. MOREOVER, WE SHOULD NOT FORGET THAT THE PRESIDENT AT THE BONN SUMMIT IN STRONG TERMS GAVE ASSURANCES OF OUR SUPPLY RELIABILITY. THE QUESTION IS CAN WE AFFORD TO GIVE THE FRENCH AN OPPORTUNITY TO EMBARRASS THE ADMINISTRATION.

3. IN THE LIGHT OF THESE CONSIDERATIONS WE HAVE BEEN RE-THINKING THE SITUATION HERE AND HAVE REACHED THE FOLLOWING TENTATIVE CONCLUSIONS:

(1) THE CANADIAN AGREEMENT MODEL WOULD BE SATISFACTORY IF IT COULD BE QUICKLY NEGOTIATED BUT WE DOUBT THAT IT COULD BE. AMONGST OTHER POINTS THE FRENCH WANTED ACCESS TO CANADIAN NATURAL URANIUM AND THEY WENT ALONG WITH THE EURATOM-CANADIAN MEMBER STATE FORMULA ON PHYSICAL SECURITY ONLY AFTER LENGTHY NEGOTIATION. IT MAY, HOWEVER, PROVIDE THE LONG-RUN ANSWER.

(2) IN EXISTING CIRCUMSTANCES THE LOOSER APPROACH UNDER CONSIDERATION IN WASHINGTON IS NOT BAD BUT WERE THE FRENCH TO REFUSE TO PLAY AS NOTED ABOVE, WE WOULD BE IN REAL TROUBLE.

(3) BY FAR THE BEST OPTION FROM THE STANDPOINT OF OUR FOREIGN RELATIONS WOULD BE TO GET THE NRC SOMEHOW TO AMEND
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ITS REGULATIONS. IF THIS IS NOT POSSIBLE FOR DOMESTIC REASONS, THEN THERE IS ONE OTHER OPTION WHICH SEEMS TO ME TO HAVE SOME POSSIBILITY.

(4) INSTEAD OF DEALING WITH THE PHYSICAL SECURITY ISSUE WITH A FORMAL DIPLOMATIC APPROACH TO EURATOM AND THE MEMBER STATES INDIVIDUALLY, SEEKING GENERIC COUNTRY ASSURANCES, WE MIGHT TRY TO HANDLE THE ENTIRE BUSINESS AT THE TECHNICAL LEVEL, I.E., WE WOULD EITHER PURSUE WHAT I UNDERSTAND IS THE CURRENT PRACTICE OF THE DOE TO OBTAIN APPROPRIATE ASSURANCES FROM THE EC DELEGATION IN WASHINGTON AFTER RECEIPT OF REQUEST FOR LICENSE FROM THE US AGENT, OR SIMPLY ADVISE THE EURATOM SUPPLY AGENCY THAT WHEN THE CUSTOMER'S AGENT, E.G., TRANS-NUCLEAR CORPORATION, SUBMITS FUTURE EXPORT LICENSE REQUESTS THEY SHOULD BE ACCOMPANIED BY CERTIFICATES FROM THE NATIONAL AUTHORITIES OF THE COUNTRY WITHIN THE COMMUNITY TO WHICH THE FUEL IS DESTINED. UNDER EITHER OF THESE APPROACHES ANY APPLICATIONS RECEIVED LACKING SUCH CERTIFICATIONS WOULD BE RETURNED AS INCOMPLETE. THIS APPROACH HAS DISADVANTAGES BOTH BECAUSE THE CASE-BY-CASE TREATMENT IS CLUMSY AND BECAUSE SOME EURATOM PURISTS MIGHT FIND IT OBJECTIONABLE. ON THE OTHER HAND, IT WOULD

AVOID THE FRENCH PROBLEM AT LEAST UNTIL THE FRENCH WANTED
SOME MATERIAL. THIS KIND OF AN APPROACH SHOULD PUT OFF A
POSSIBLE CONFRONTATION UNTIL LATER THIS YEAR OR NEXT YEAR,
BY WHICH TIME THE EUROPEAN COURT DECISION ON COMMUNITY
COMPETENCE WILL PROBABLY BE AVAILABLE (I WOULD GUESS IT
IS MOST LIKELY TO INDICATE SHARED COMPETENCE BETWEEN THE
COMMUNITY AND THE MEMBER STATES) AND EVEN MORE IMPORTANT
WE WILL HAVE OPENED NEGOTIATIONS AND MIGHT BE IN A BETTER
POSITION TO DEAL WITH THIS AND OTHER ISSUES ARISING OUT
OF THE NON-PROLIFERATION ACT. HINTON

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